

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 23-1170V

Filed: April 16, 2025

Reissued for Public Availability: May 27, 2025

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MICHELE ALPHONSE, *

*

Petitioner, *

*

v. *

*

SECRETARY OF HEALTH *

AND HUMAN SERVICES, *

*

Respondent. *

* * * * *

Michele Alphonse, pro se petitioner.

Parisa Tabassian, Esq., U.S. Dept. of Justice, Washington, DC for respondent.

DECISION¹

Roth, Special Master:

On July 27, 2023, Michele Alphonse (“petitioner”) filed a petition for Vaccine Compensation in the National Vaccine Injury Compensation Program (“the Program”),² alleging that the tetanus-diphtheria-acellular pertussis (“Tdap”) vaccine she received on September 21, 2021 caused her to experience “chest wall radicular pain and numbness and left sided leg numbness”. Petition, ECF No. 1. The information in the record, however, does not show entitlement to an award under the Program.

An Order to Show Cause was issued on February 3, 2025, thoroughly detailing petitioner’s medical history and her submissions to the Court throughout the pendency of the matter. Order to Show Cause, ECF No. 44. I explained that petitioner had not provided a diagnosis for her alleged injuries, received no treatment for her alleged injuries, and filed no corroborating evidence to support the statements she had made in her submissions to the Court. *Id.* at 5. Petitioner was accordingly ordered to show cause for why her claim should not be dismissed.

¹Pursuant to Vaccine Rule 18(b), this Decision was initially filed on April 16, 2025, and the parties were afforded 14 days to propose redactions. The parties did not propose any redactions. Accordingly, this Decision is reissued in its original form for posting on the Court’s website.

² The Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-10 *et seq.* (hereinafter “Vaccine Act” or “the Act”). Hereafter, individual section references will be to 42 U.S.C. § 300aa of the Act.

Petitioner failed to comply with the Order to Show Cause by the April 4, 2025 deadline. As of today, April 16, 2025, petitioner has not complied with the Court's order or communicated with the Court in any way.

Special masters may dismiss a petition where the petitioner fails to follow court orders. *See Padmanabhan v. Sec'y of Health & Human Servs.*, 638 Fed. App'x 1013 (Fed. Cir. 2016); *see also Tsekouras v. Sec'y of Health & Human Servs.*, 26 Cl. Ct. 439 (1992), *aff'd per curiam*, 991 F.2d 810 (Fed. Cir. 1993); *Sapharas v. Sec'y of Health & Human Servs.*, 35 Fed. Cl. 503 (1996); Vaccine Rule 21(b).

Further, to receive compensation under the Program, petitioner must prove either 1) that she suffered a "Table Injury" – i.e., an injury falling within the Vaccine Injury Table – corresponding to his vaccination, or 2) that she suffered an injury that was actually caused by a vaccine. *See* §§ 13(a)(1)(A) and 11(c)(1). An examination of the record did not uncover any evidence that petitioner suffered a "Table Injury." The record does not contain persuasive evidence indicating that petitioner's alleged injury was vaccine-caused or in any way vaccine-related.

Under the Act, a petitioner may not be given a Program award based solely on the petitioner's claims alone. Rather, the petition must be supported by either medical records or by the opinion of a competent physician. § 13(a)(1). In this case, because there are insufficient medical records supporting petitioner's claim, a medical opinion must be offered in support. Petitioner, however, has offered no such opinion that supports a finding of entitlement.

Accordingly, it is clear from the record in this case that petitioner has failed to demonstrate either that she suffered a "Table Injury" or that her injuries were "actually caused" by a vaccination. **Thus, this case is dismissed for insufficient proof. The Clerk shall enter judgment accordingly.**

IT IS SO ORDERED.

s/ Mindy Michaels Roth
Mindy Michaels Roth
Special Master